

**MINUTES OF THE  
ADMINISTRATIVE RULES REVIEW COMMITTEE**  
Friday, January 13, 2006 – 9:00 a.m. – Room W135 House Building

**Members Present:**

Sen. Howard A. Stephenson, Senate Chair  
Rep. David Ure, House Chair  
Sen. Mark B. Madsen  
Sen. Ed Mayne  
Sen. Michael G. Waddoups  
Rep. James R. Gowans  
Rep. Kory M. Holdaway  
Rep. Carol Spackman Moss  
Rep. Merlynn T. Newbold

**Members Excused:**

Sen. Mike Dmitrich

**Staff Present:**

Mr. Arthur L. Hunsaker, Policy Analyst  
Ms. Susan Creager Allred, Associate General Counsel  
Ms. Tracey Fredman, Legislative Secretary

**Note:** A list of others present, copy of related materials, and an audio recording of the meeting can be found at [www.le.utah.gov](http://www.le.utah.gov).

**1. Committee Business**

Chair Stephenson called the meeting to order at 9:20 a.m.

**MOTION:** Rep. Ure moved to approve the minutes of the December 14, 2005 meeting. The motion passed unanimously. Rep. Newbold were absent for the vote.

**2. Statutory Authority Granted to State Agencies to Establish Criminal Penalties by Rule**

Mr. Hunsaker distributed and reviewed "Statutes Needing Additional Review Prior to Determining Whether to Recommend Moving Language from Rule to Statute" and "Statutes of Agencies that Report Minimal Impact of Moving Penalties Into Statute OR Accept Possible Move and Raise No Major Concerns."

Ms. Lynn Solarczyk, Director of Legislative Affairs, Utah State Tax Commission, commented on draft language that should be included in the "Minimal Impact" handout.

Mr. Bill Sinclair, Deputy Director, DEQ (Utah Department of Environmental Quality), spoke in support of the proposed changes and commented that if there is any action taken on DEQ's statutes that DEQ would like to be involved.

Mr. Steve Roberts, Deputy Director, Division of State Parks and Recreation, said the State Boating Act would likely need to be rewritten.

Ms. Ann Pedroza, Research Analyst, Money Management Council, presented draft language for inclusion in the "Minimal Impact" handout.

Mr. Stephen Schwendiman, Assistant Attorney General, representing the Division of Forestry, Fire, and State Lands, commented on the need for flexibility in assessing and acting upon issues that come up unexpectedly.

**MOTION:** Rep. Ure moved that the Committee direct staff to begin drafting a bill to amend statutes that are listed on "Statutes of Agencies that Report Minimal Impact of Moving Penalties Into Statute OR Accept Possible Move and Raise No Major Concerns" document, including the additions suggested by Ms. Solarczyk and Ms. Pedroza, and to delay until after the 2006 General Legislative Session the items listed on "Statutes

Needing Additional Review Prior to Determining Whether to Recommend Moving Language from Rule to Statute." The motion passed unanimously.

### **3. Staff Report: Administrative Rulemaking Authority for the Governor's Office of Economic Development**

Mr. Hunsaker distributed and introduced working draft "Administrative Rulemaking Authority for the Governor's Office of Economic Development."

Mr. Michael Sullivan, Director, Communications and Legislative Relations, GOED (Governor's Office of Economic Development), said the GOED would accept the direction of the Legislature on this issue.

**MOTION:** Rep. Ure moved to adopt the working draft "Administrative Rulemaking Authority for the Governor's Office of Economic Development" as a committee bill. The motion passed unanimously. Rep. Holdaway was absent for the vote.

### **4. Draft Legislation**

Mr. Hunsaker distributed and introduced draft legislation "Administrative Rules Reauthorization," "Impact of Administrative Rules on Small Businesses," and "Administrative Rules Reauthorization and Impact of Administrative Rules on Small Businesses."

Committee discussion followed.

**MOTION:** Sen. Mayne moved that the Committee adopt draft legislation "Administrative Rules Reauthorization" as a committee bill. The motion passed unanimously. Rep. Holdaway was absent for the vote.

**MOTION:** Rep. Ure moved that the Committee adopt draft legislation "Impact of Administrative Rules on Small Businesses" as a committee bill. The motion passed unanimously.

Rep. Ure suggested that all the committee bills be numbered together.

Mr. Hunsaker distributed and introduced working draft "Rulemaking Authority for the Administrative Services Director."

Mr. Ken Hansen, Director, Administrative Rules, commented on the need for this proposed legislation and responded to questions from the Committee.

**MOTION:** Rep. Ure moved that the Committee direct staff to combine into one bill the working draft "Rulemaking Authority for the Administrative Services Director" with the working draft "Administrative Rulemaking Authority for the Governor's Office of Economic Development," and to recommend the combined draft legislation as a committee bill. The motion passed unanimously.

Art distributed and reviewed working draft "Administrative Rules Procedure Amendments."

Committee discussion followed.

**MOTION:** Sen. Waddoups moved to amend working draft "Administrative Rules Procedure Amendments" as follows: On line 85, delete "three" and insert "five." The motion passed unanimously.

Mr. Sinclair distributed proposed language to be added to Subsection 63-46a-12(5) in working draft "Administrative Rules Procedure Amendments."

Mr. Fred Nelson, Attorney General's Office, reviewed the proposed language and responded to questions from the Committee.

**MOTION:** Sen. Madsen moved to accept the proposed language submitted by DEQ to working draft "Administrative Rules Procedures Amendments" with the following change: delete "90" and insert "80." The motion passed unanimously. Rep. Moss was absent for the vote.

Mr. Craig Call, Property Rights Ombudsman, commented on the need to clarify use of the word "initiate."

**MOTION:** Rep. Ure moved to move to the next item on the agenda. The motion passed unanimously. Sen. Mayne and Rep. Moss were absent for the vote.

## **5. Committee Business**

The next meeting was scheduled for Friday, January 20, 2006.

Rep. Newbold requested that the Administrative Rules Committee subject area reading assignments be completed and distributed to committee members.

## **6. Adjourn**

**MOTION:** Rep. Gowans moved to adjourn the meeting. The motion passed unanimously. Sen. Mayne and Rep. Moss were absent for the vote.

Chair Stephenson adjourned the meeting at 11:00 a.m.